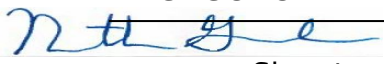
	<b>LOS LUNAS POLICE DEPARTMENT</b>		
	OPERATIONS	NUMBER: OPR.02.06	EFFECTIVE DATE: July 2, 2010
	SUBJECT: Confidential Informants		REVIEW DATE: May 23, 2018
	AMENDS/ SUPERSEDES:		NMSA:
NMMLEPSC STANDARDS: OPR.02.06; ADM.16.03		APPROVED BY CHIEF OF POLICE NAITHAN G. GURULE  Signature	

## I. PURPOSE

The purpose of this policy is to provide protocols for the control and use of confidential informants (CI).

## II. POLICY

It is the policy of this law enforcement agency to take necessary precautions by developing sound informant control procedures. In many instances, a successful investigation cannot be conducted without the use of CIs. While the use of CIs can be an effective tool in investigations, it can be undermined by misconduct of the CI or improper handling by the officer using the informant.

## III. DEFINITIONS

*Confidential informant:* An individual who, in an arrangement with law enforcement authorities, agrees to serve in a clandestine capacity to gather information for those authorities on suspected criminal activity or known criminal operatives in exchange for compensation or consideration.

*Confidential informant file:* File maintained in order to document all information that pertains to confidential informants.

*Unreliable informant file:* File containing information pertaining to individuals determined to be generally unfit to serve as informants.

*Compelling public interest:* For purposes of this policy, situations in which failure to act would result or likely result in loss of life, serious injury, or have some serious negative consequence for persons, property, or public safety and therefore demand action.

*Handler:* The officer primarily responsible for supervision and management of a CI.

#### **IV. PROCEDURES**

##### **A. Initial Suitability Determination**

1. An officer requesting use of an individual as an informant shall complete an Initial Suitability Report. The report shall be submitted to the department's Lieutenant of Detectives or other authorized personnel to review for potential selection as a CI. The report shall include sufficient detail regarding the risks and benefits of using the individual so that a sound determination can be made. The following information shall be addressed in the report where applicable:
  - a. Age, sex, and residency status
  - b. Employment status or occupation
  - c. Affiliation with legitimate businesses and illegal or suspicious enterprises
  - d. Extent to which potential information, associations, or other assistance could benefit a present or future investigation
  - e. Relationship between the potential CI and the target of an investigation
  - f. Extent to which provided information can be corroborated
  - g. Criminal history, to include whether he or she is the subject of a pending investigation, is under arrest, or has been charged
  - h. Whether he or she is reasonably believed to pose a risk to the public, or is a flight risk
  - i. Whether he or she is a substance abuser
  - j. Whether he or she is related to anyone in law enforcement
  - k. Any prior or current service as a CI with this or another law enforcement organization
2. Each CI's suitability shall be reviewed annually (at a minimum), during which time the CI's primary officer contact shall submit a

Continuing Suitability Report addressing the foregoing issues in IV.A.1.a.-k NEED TO BE UPDATED IF CHANGES ABOVE. where applicable.

3. Any information that may negatively affect a CI's suitability during the course of his or her use shall be forwarded to the chief of detectives or other authorized personnel for information and appropriate action as soon as possible.
4. Supervisors shall review informant files regularly with the handler and shall attend debriefings of CIs periodically as part of the informant management process.
5. CI contracts shall be terminated and the CI file placed in inactive status when the CI has not been used for one year or more.

#### B. Special CI Approval Requirements

Certain individuals who are being considered for use as a CI require special review and approval. They include the following classes of individuals:

##### 1. Juveniles

Use of a juvenile under the age of 18 as a CI may only be undertaken with the advance approval of the department chief executive or his or her designee, and with the written authorization of the individual's parents or guardians. Authorization for such use should be granted only when a compelling public interest can be demonstrated.

##### 2. Individuals Obligated by Legal Privilege of Confidentiality

This class of individuals includes, but may not be limited to, attorneys, physicians, and members of the media. The office of the prosecutor and the chief of police shall be consulted before any officers use such individuals as CIs.

##### 3. Governmental Officials

This includes persons in high-level and highly sensitive local, state, or federal governmental positions. The office of the prosecutor and chief of police shall be consulted before any officers use such individuals as CIs.

##### 4. Wards of the Corrections Authority

This includes persons who are in the custody of local or state departments of corrections or under their supervision in the community through probation, parole, supervised release, or

other programs. It may also include persons who are current or former participants of the federal witness security program. Use of such individuals as CIs requires, at a minimum, approval of the department of corrections.

#### C. Establishment of an Informant File System

1. The officer in charge of the criminal investigations function shall be responsible for developing a CIs file. That file will be approved by supervisor and placed for safe keeping in the CI Filing Cabinet and assigned a number. The CI number will give to criminal investigator.
2. A file shall be maintained on each CI deemed suitable by the department. An additional file shall be established for CIs deemed unsuitable during initial suitability determinations or at a later time. Each file shall be coded with an assigned informant control number for identification within the indexing system and shall include the following information:
  - a. Name, aliases, and date of birth
  - b. Height, weight, hair color, eye color, race, sex, scars, tattoos, or other distinguishing features
  - c. Name of officer initiating use of the informant and any subsequent officer handlers
  - d. Photograph, fingerprints, and criminal history record
  - e. Current home address and telephone number(s)
  - f. Current employer, position, address, and telephone number
  - g. Marital status and number of children
  - h. Vehicles owned and their registration numbers
  - i. Gang affiliations
  - j. Briefs of information provided by the CI and their subsequent reliability
  - k. Special skills and avocations
  - l. Special areas of criminal expertise or knowledge
  - m. A copy of the signed informant agreement
3. Informant files shall be maintained in a separate and secured area in the criminal investigations section.
4. Informant files shall be used for the following purposes:

- a. Provide a source of background information about the informant
  - b. Provide a complete history of the information received from the informant
  - c. Enable supervisory review and evaluation of information given by the informant
  - d. Minimize incidents that could be used to question the integrity of investigators or the reliability of the CI
  - e. Help prevent unwanted duplicate uses of the same CI by officers in this department
5. The officer in charge of informant files shall ensure that information concerning informants is strictly controlled and distributed only to officers and other authorities who have a need and a right to such information.
6. Sworn personnel may review an individual's informant file only upon the approval of the chief or his designee. The requesting officer shall submit a written request explaining the need for review. A copy of this request, with the officer's name, shall be maintained in the CI's file. Such officers shall not remove, copy or disseminate information from the file; all informant files shall be reviewed only in designated areas of the police facility and returned as soon as possible to their secure file location.
7. All disclosures or access to informant files shall be recorded by the file supervisor to include information such as the requesting officer or agency, the purpose of access or disclosure, the information conveyed, and the date and time of access or dissemination.
8. The name of a CI shall not be included in an affidavit for warrant unless judicial authority is obtained to seal the document from public record or the CI is a subject of the investigation upon which the affidavit is based. Additionally, officers shall scrupulously avoid providing details of CI actions or involvement in arrest reports and other documents available to the public.
9. No portion of a CI's file shall be entered into any other electronic or related database without controls sufficient to exclude access to all but authorized personnel with a need and a right to know.

10. Handlers are responsible for ensuring that information of potential value to other elements of the department is provided promptly to authorized supervisory personnel
11. Employees leaving employment with the department have a continuing obligation to maintain as confidential the identity of any CI and the information he or she provided unless obligated to reveal such identity or information by law or court order.

#### D. General Guidelines for Handling CIs

1. CIs are assets of the department, not the individual handler.
2. CIs shall not be used without authorization of the department through procedures identified in this policy.
3. CIs shall not be used to gather information on individuals who are not otherwise under investigation or suspicion of criminal conduct.
4. CIs shall not be used for gathering information purely of a political nature or for other information-gathering efforts that are not connected with a criminal investigation.
5. All CIs shall sign and abide by the provisions of the departmental informant agreement. The primary officer handling the CI shall discuss each of the provisions of the agreement with the CI, with particular emphasis on the following:
  - a. Informants are not law enforcement officers. They have no arrest powers, are not permitted to conduct searches and seizures, and may not carry a weapon.
  - b. Informants will be arrested if found engaging in any illegal activity. They will receive no special legal considerations.
  - c. Informants are prohibited from engaging in actions or activities that could be deemed entrapment. The meaning of the term and implications of such actions shall be explained to each CI. For instance, CIs shall not participate in actions that encourage, persuade, or otherwise motivate a person to engage in criminal activity.
  - d. Informants are prohibited from engaging in self-initiated information or intelligence gathering without departmental direction and approval.

- e. Every reasonable effort will be taken to ensure the confidentiality of the informant but, upon judicial order, he or she may be required to testify in open court.
  - f. Informants may be directed to wear a listening and recording device.
  - g. Informants may be required to submit to a search before and after a controlled purchase.
- 6. Officers shall take the utmost care to avoid conveying any confidential investigative information to a CI (such as the identity of other informants, surveillance activities, or search warrants) other than what is necessary and appropriate for operational purposes.
- 7. No member of this agency shall knowingly maintain a social relationship with CIs, or otherwise become personally involved with CIs beyond actions required in the performance of duty. Members of this agency shall not solicit, accept gratuities from, or engage in any private business transaction with a CI.
- 8. Meetings with CIs shall be conducted in private and with another officer present. Meetings with CIs shall be documented and subsequently entered into the CI's file.
- 9. When reasonably possible, officers shall corroborate information provided by a CI and document efforts to do so in the informant or case file.

#### E. Monetary Payments

- 1. All fees and rewards paid to CIs shall be commensurate with the value of the information or assistance provided the department.
- 2. All CI payments shall be approved in advance by the officer in charge of confidential funds.
- 3. Officers shall provide accounting of monies received and documentation for expenditure of confidential funds expended and will complete a monthly report and have a financial audit of all official funds.
- 4. Two officers shall be present when making payments or providing funds to CIs.

5. The commanding officer of criminal investigations shall ensure that the process for authorization, disbursement, and documentation of CI payments, as well as the accounting and reconciliation of confidential funds is consistent with this department's policy.
6. If a CI is authorized to work with another law enforcement or prosecutorial agency, financial payments shall be coordinated between the agencies in a manner that is proportionate to the assistance rendered to each agency and consistent with provision IV.E.1. of this policy.
7. Patrol officers will use the same procedures as investigators in all aspects concerning informants.

F. Confidential Investigations Fund (added May 23, 2018)

CID conducts narcotics related investigations of individuals and organizations involved in narcotics trafficking and vice-related crimes, including prostitution and human trafficking. CID coordinates narcotics enforcement efforts among various local, state, and federal law enforcement agencies within the Village of Los Lunas and Valencia County. Through the combined efforts of local, state, and federal agencies, CID actively pursues groups or individuals who manufacture, distribute, or sell illegal drugs and/or promote prostitution, human trafficking and other vice-related crimes within the Village of Los Lunas and Valencia County.

The Los Lunas Police Department maintains a Confidential Investigations Fund for the purpose of purchasing contraband and otherwise supporting intelligence operations.

1. Source of Confidential Funding

The sources to be used by LLPD may be derived from the following places:

- a) The funding mechanisms of the police department
- b) The Office of the District Attorney
- c) State and Federal grant monies and forfeiture funds, provided that such use is not prohibited by state or federal law.



2. Purposes of the Investigations Fund Monies
  - a) Payment for information from informants for probable cause to acquire a search warrant or to make an arrest;
  - b) Purchase of contraband; and
  - c) Expenses developing from an investigation where receipt of money from normal channels is not possible.
3. The following information shall be recorded where applicable:
  - a) Case number or Confidential Informant Identifier Code
  - b) Reason for expenditure (i.e. controlled purchase of narcotics, payment to C.I. investigative expense, or deposit)
  - c) Date of expenditure
  - d) Case officer
  - e) Amount expended or deposited
  - f) Signature of Officer confirming receipt of funds
4. Confidential Fund expenditure records shall be treated as security sensitive information and shall not be disclosed to unauthorized personnel.
5. All Confidential Funds and, records, receipts, and ledgers will be produced upon demand by the Chief of Police, Operations Division Lieutenant and the Investigations Sergeant or designee, as well as, Village designated auditors and the State auditor's office.
6. Audits of the Confidential Investigations Fund will be conducted by LLPD's Lieutenant for Professional Standards on a quarterly basis.